

NOV 20 2006

*Application No. 10/732983*  
*Page 6*

*Amendment*  
*Attorney Docket No. S63.2B-10888-US01*

**REMARKS**

This Amendment is in response to the Office Action dated **September 21, 2006**.  
Each issue in the official action is addressed below.

***§112 Rejections***

Claims 26 and 27 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, Claims 26 and 27 contain the trademark/trade name EMS, Hytrel and Amitel.

In response, claims 26 and 27 have been amended to remove the asserted indefinite nature of the claims.

***§102 Rejections***

Claims 1-5, 10, 13, 15-17, 19-27, and 29 were rejected under 35 USC §102(b) as being anticipated by Hamilton et al (US 6,368,301). It is asserted in the rejection that Hamilton discloses a catheter having a shaft 21 having a distal tip layer 14 extending distally from the shaft, and a balloon having a proximal and distal waist, wherein the distal waist is connected to the distal portion of the shaft and is positioned at least adjacent to the proximal end of the distal tip layer (col. 3, lines 29-34). With respect to claim 3, the rejection points to column 5, lines 10-15.

In order to further prosecution to issuance, independent claim 1 has been amended to further distinguish it and the claims dependent thereon from the cited reference. Withdrawal of the rejection is therefore respectfully requested.

As to independent claim 23 and those claims dependent thereon, the figures in Hamilton et al. do not show, among other things, "a first tubular layer about the shaft *and* a second tubular layer about the shaft", wherein the first tubular layer is at least partially between the second tubular layer and the shaft, as required by claim 23. As such, withdrawal of the rejection is respectfully requested.

**BEST AVAILABLE COPY**

*Application No. 10/732983*  
*Page 7*

*Amendment*  
*Attorney Docket No. S63.2B-10888-US01*

*Allowable Subject Matter*

Claims 6-7 and 18 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The allowability of claims 6-7 and 18 is acknowledged. However, for the above discussed reasons, independent claim 1, as amended, is not anticipated by the cited reference and rewriting claims 6-7 and 18 is unnecessary.

The application should now be in condition for allowance. Allowance is therefore earnestly solicited. If the Examiner would like to further discuss the case, he is encouraged to contact the undersigned.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: November 20, 2006

By: 

William E. Anderson II  
Registration No.: 37766

6109 Blue Circle Drive, Suite 2000  
Minnetonka, MN 55343-9185  
Telephone: (952) 563-3000  
Facsimile: (952) 563-3001

f:\wpwork\wea\10888us01\_and\_20061120.doc

**BEST AVAILABLE COPY**